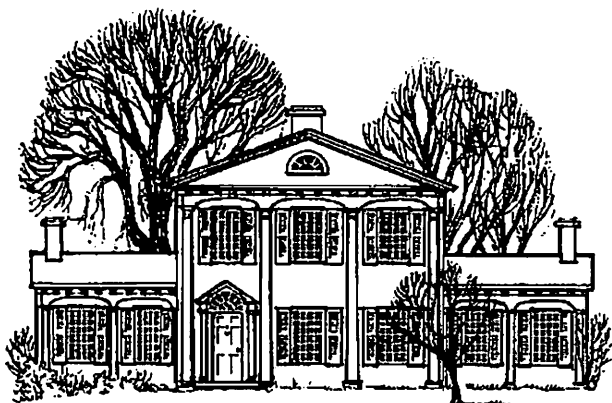


ACORN

The Journal of The Architectural Conservancy of Ontario





ACORN

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Contents

From the Editor	3
Journeys and the Last Two Years	3
Walking New York's Historic Districts with Anthony Tung	4
New Life for a Wonderful Heritage Building	7
South Bruce-Grey	9
North Waterloo Region	9
London Region	13
Hamilton Region	13
Quinte	13
Port Hope	14
Windsor Region	14
Case Law Decided By The Courts Under The Ontario Heritage Act	15
Book Review – Eden Smith: Toronto's Arts and Crafts Architect	16
Book Review: Well Preserved	17

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Cover: Hamilton City Hall. Designed by City Architect Stanley Roscoe in 1960. One of the many interesting sights to see during the 2004 Architectural Conservancy of Ontario/Community Heritage Ontario Conference, to be held in Hamilton, May 14-16.

Photo: Tom Bochsler and the Hamilton Public Library.

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Incorporated in 1933 to preserve buildings and structures of architectural merit and places of natural beauty or interest

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From the Editor

Dan Schneider



The Report of the Auditor General of Canada is getting a lot of attention as I write this. But dig beyond the outrageous details of the sponsorship program in Quebec and you will find a very interesting chapter on the protection of cultural heritage in the federal government.

The report's main point is that built, archival, and published heritage under the auspices of the federal government is exposed to serious risks of losses because of deficiencies in protection regimes, weaknesses in management procedures, and what the report calls "the combined effect of a decrease in protection expenditures and continued growth in heritage."

What astonished me about this report was not so much its findings and recommendations, but the fact that the office of the Auditor General – in my stereotypical imaginings a very dour place filled with number crunchers and efficiency experts – had taken our heritage and its conservation (or lack thereof) so much to heart.

Here are some examples from the front end of the report:

"Cultural heritage means the tangible evidence of human experience, such as artefacts, archives, printed material, cultural products, architectural heritage, sacred sites and archaeology. For some, this brings to mind old historic buildings; for others, it means visits to museums.... Cultural heritage also refers to intangible evidence such as folklore, language, customs, traditions and know-how. These may be invisible, but they are very much alive."

"Cultural heritage is increasingly considered not only an asset to be protected and valued but also a means of promoting and reinforcing the cultural identity and cohesion of society. For a long time, heritage has not been protected for the sake of protection only. It is protected so that it may be valued, passed on, and made accessible to future generations. The public is interested in heritage in different ways and for different reasons: for some, heritage is a way to learn about Canada's past; for others, it is

the purpose of a trip or visit; for yet others, it represents employment. Most believe that heritage contributes to the quality of life for Canadians."

"The growth of heritage assets and the financial resources available for their protection are two key factors that influence the protection of cultural heritage. Heritage accumulates naturally, but this growth has tended to accelerate in recent years because of, among other things, aging of buildings, increased government activities, increased published materials, and a broadened view of the concept of heritage. ... This broadening has helped to situate heritage in its context much better and thus place greater emphasis on its importance. However, this in turn has increased the number of heritage elements needing protection, and thereby the demand for resources for protection activities."

Ironically – given the sobering details of the audit of federal heritage organizations that follows – as a result of comments such as these I came away feeling more encouraged than not. Our cultural heritage has found a new champion in none other than the Auditor General of Canada!

Hoping to see you in Hamilton in May.

Journeys and the Last Two Years

Christopher Borgal



I'm writing this while being driven through Southwestern Ontario, revisiting places that were the centre of my life many years ago. I suppose that is fitting, in that this will be my last column before turning over

the reins to the next ACO President. As the car rolls through the various towns, cities and villages, one can reflect on the nature of this collection of communities, which – as I see it – is actually a large urban conglomerate with much larger spaces between the houses on average, save for the individual municipalities where the buildings condense into closer proximity.

You can see the whole evolution of Ontario

communities here. In some instances the crossroads over which we are driving were actually laid out as villages that disappeared at some point in the last two centuries. Any student of planning can begin with such a crossroads (which may have a remaining rural schoolhouse nearby), move to a small settlement, then a small town, then a larger one until one reaches the GTA (which still contains, in many suburbs, the farmhouses which originally dotted the landscape). Laid out along this continuum is, in real terms, the record of the way in which Ontario developed. It's there for all to see – just hop in a car and go exploring! And that's why we should strive to preserve these buildings and communities.

These past two years, for me, have been another form of journey of exploration. I haven't been able to do nearly as much as I had wished at the outset – too many other issues intervened – but I was able to visit several of the branches and meet a large number of the members. Each one has his/her own story as to the reasons for supporting the ACO.

For me, this journey has seen many transitions. These included the passing of friends and dedicated members, such as A.K. Sculthorpe and Nick Hill, whose loss affected me personally. Losses of buildings continue to rankle and their demise is, in the same manner, a loss of the individual personalities of communities, a loss that reduces the nature and spirit of those very communities through which I am travelling today.

But there have also been victories and positive changes. The legal victory in Essex County regarding the churches was important for the whole province, and the ACO was a key factor in that success. Walking tours throughout the province, sponsored by ACO branches, annually introduce hundreds (perhaps thousands) to heritage awareness and are a key part of the dissemination of Ontario's culture. We had an important part to play in influencing policies of the new provincial government and were at the table and contributing solidly to revisions to the Ontario Heritage Act (and further improvements which, hopefully, will make it more relevant). A new initiative will see a regular round ta-



Just outside the SoHo district boundary on Canal Street, visual chaos reappears

Photo: Cathy Nasmith

ble meeting of non-government organizations, including the ACO, with the Ontario Heritage Foundation and will allow us to influence further the direction of heritage preservation in Ontario. Our Advisory Board was renamed PreservationWorks! and has become much more successful and relevant. Other initiatives are being put into place that should see improved income for the ACO in the coming years.

Finally, our upcoming conference stems from a suggestion I was able to make in conversation with Bob Saunders of Community Heritage Ontario, the umbrella organization for Ontario municipal heritage advisory committees. We felt that having a joint conference with CHO and ACO would allow those bound by municipal requirements to interact with our non-government organization in a forum that would be to the benefit of both groups. It will give ACO members unprecedented access to municipally involved heritage activists and, hopefully, will stimulate a new source of membership, branches, and activists for our activities.

Looking at the towns and villages as they slide by, I wonder what long-term impact this past two years will have. I hope that I have managed to make a difference, just as I know that each reader of this article can, with even a modest donation of time

and effort, make a profound impact on the preservation of heritage buildings and cultural landscapes in Ontario.

Thank you for your support over the past two years.

Walking New York's Historic Districts with Anthony Tung

*Catherine Nasmith,
in conversation with,
and edited by, Anthony Tung*

Commissioned by the editor of ACORN in response to a suggestion by the author, this article first appeared in The Globe and Mail in March, 2004.

Where do we like to go when we visit New York City? Greenwich Village, the Upper East Side, Soho, Tribeca, Brooklyn Heights, maybe South Street Seaport. As a visitor, you might not realize that all of these places are historic districts. New York City has over eighty such areas (composed of about 20,000 buildings), all carefully regulated by its Landmarks Preservation Commission.

According to Anthony M. Tung, former NYC Landmarks Preservation Commissioner, urbanist, and author of *Preserving The World's Great Cities: The Destruction And Renewal Of The Historic Metropolis*: "Since the late sixties, the regulation of historic districts has been essential to the city's physical and economic revival because it inculcated a 'culture of conservation' in neighborhoods across New York: a broad discussion on how to enhance the livability of the metropolis."

Meanwhile, though historic district preservation is a highly successful tool in other places around the world, Ontario's use of Heritage Conservation Districts is still rather tentative. New York City alone has more districts than we do in the whole of our province. Here we often hesitate to make such designations, while according to ex-commissioner Tung: "New York City neighborhoods are waiting in line, actively seeking the benefits of official Historic District regulation."

Since acting as Mr. Tung's guide to Toronto during his visit of June 2002 I have been peppering him with questions about how New York does it. In the fall of 2003, I was in the city to attend their first Doors Open, a program that has been learning from Ontario's successes, and Tony (as he likes to be called) was kind enough to spend a day walking some historic districts with me, explaining how things work in Noho, Soho, and further downtown at South Street Seaport. I still have lots of questions, but here's some of what I learned.

Historic Districts Look Different

First, in mature historic districts things just



Unrestored building in NoHo

Photo: Cathy Nasmith

seem to "look right." As you would expect, the buildings are well preserved, commercial signage is felicitous in design, and the integrity of architectural detailing is more consistent up and down the street: windows tend to be multi-paned, air conditioners don't disrupt important decorative building features, modern roof-top additions are sympathetic in style or set-back and out-of-sight, new storefronts are harmonious with old facades, and jarring colors and materials are avoided.

And, there is often a noticeable change at the edges of districts. As you leave, the visual clutter of too many signs, missing windows, mismatched ground and upper floors, and less attention to the details of the environment start to re-appear. The

shift is very noticeable as you step out of NoHo to Houston Street or from SoHo to Canal Street. Along such borders, even building owners trying to do the right thing in preserving their buildings, hoping to capture some of the real estate fairy dust that heritage preservation bestows in New York, don't quite get it correct without the benefit of the expert advice of the Landmarks Commission and its staff of about 50 professionals.

A Binding Law

Preservation is serious business in New York. The Landmarks Commission is appointed by the Mayor, and is given strong powers to protect both individual landmarks and buildings in Historic Districts. Fundamental to this system is the ability to stop demolitions. "Without this power, environmental historic preservation simply doesn't work to its full potential," notes Tony. At the same time, the Commission must be very judicious in its decision making, so that its rulings will stand up if challenged. All designations require confirmation by the City Council. Regulatory decisions regarding improvements can be contested by property owners in the courts.

A "Culture of Conservation"

Tony then explained that establishing an area as a historic district is just the beginning of the conservation process: "a phenomenon hard to anticipate unless one lives in a city where such laws are enacted." Achieving that sense of "looking right" takes time. Different property owners are able to invest at different intervals, and improvements in public spaces occur gradually as well. While the preponderance of structures in a district must qualify as heritage buildings, there are also "non-con-



****ACORN 2004 Deadlines****

Summer Issue (no branch reports) - June 1

Fall Issue (includes branch reports) - October 1

Contributors - please mark your calendars now!



tributing" structures and gaps such as vacant or under-built lots. The establishment of a district stops the loss of important historic fabric and ensures that change occurs in a manner that is appropriate to the character of the place.

One sees this on the street. We started our tour in NoHo, a recently established district. As it has only just begun to be regulated there are still many buildings in need of restoration, quite a few inappropriate signs, intrusive storefronts, out-of-style replacement windows, gargantuan roof top additions and various other odd fissures in the built fabric. Some buildings are well preserved but many are not.

By comparison, the nearby SoHo Cast-Iron Historic District was established as a district thirty years ago (following the publication by preservation activists of an influential scholarly text: *Cast-Iron Architecture in New York*). After several decades of regulation, SoHo looks great and has become a highly desirable and expensive area for galleries, designers, antique dealers, shops and restaurants.

"Once the legal safeguards were set in place, an accrual began of numerous restorative acts. Some large, some small. The effect over time is startling. Simply, when all physical changes are regulated, the pre-

ponderance of changes are positive, and the upward momentum is powerful," Tony remarked.

Getting the Curbs and Lamps Right Too

Looking about, I also admired the careful attention to paving, curbs, fire escapes, lamp standards and other street furniture that creates an overall, integrated "sense of place."

"There were debates about the paving," Tony told me. "The historic granite sets and curbs were considered unsafe by city engineers who wanted smooth surfaces for women in high heel shoes." After much discussion, a compromise was reached; the granite sets and curbs would be maintained on the streets, but at the pedestrian crossings a smooth granite paver was used – a solution that first evolved at the South Street Seaport Historic District.

Similarly, when it came time to replace street lighting in SoHo, the Landmark Commission was able to convince the city to use old molds for re-casting characteristic "Bishop's Crook" street lamps. In South Street Seaport, appropriate examples of historic city street lamps were found on the pedestrian walkway of the Brooklyn Bridge (an individual landmark of the city).



SoHo streetscape - note preserved characteristic fire escapes, showrooms, and "Shepherd's Crook" light standards

Photo: Cathy Nasmith



Scholastic Office Building (1997, Aldo Rossi) and Little Singer Building (1902, Ernest Flag), SoHo Cast Iron District

Photo: Cathy Nasmith

Elevating the Quality of New Construction

Regulation of the design of new buildings in historic districts generates a public discussion on urban architecture. In New York, as that debate has proceeded over the years, a higher standard of architectural response has occurred and what Tony describes as "intelligent infill" is sometimes achieved – buildings which are sympathetic in design rather than simply imitative in style. (In Soho, he pointed out as a good example the recently built headquarters of the Scholastic Publishing House, designed by Italian architect Aldo Rossi. The building makes reference in its materials, colors, and scale to the adjacent Little Singer building, but also is emphatically a building of its own period (1997).

"The general quality of infill structures is improving in numerous unregulated areas such as the Lower East Side, the Bowery, and in Little Italy and Chinatown," he observed. "I don't believe that this is disconnected to the pluralistic debate about architecture in Historic Districts. Residents in these areas have become conversant in such matters. So have government officials, the newspapers, developers, and ar-

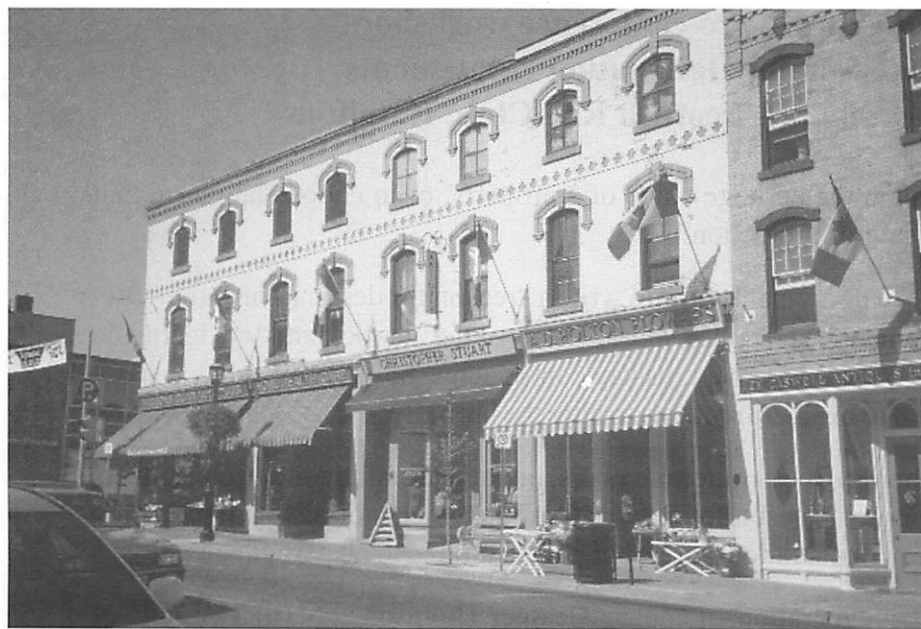
chitects. Now, the conversation is spreading.”

Places of Economic Vitality

Protection of the environmental quality of Historic Districts makes such neighborhoods desirable places to live, work, and invest. In this regard, Tony noted a recent study which showed that since the establishment of the Landmarks Commission in 1965, property values in official Historic Districts are “unfailingly higher than in comparable non-designated areas of the city.”

“We might also notice that the list of New York’s official historic districts is a list of socially and economically vibrant neighborhoods. They’re places that are thriving. And – as in London, Paris, Vienna, and Singapore – they’re also important assets for tourism: vital components for the economic growth of the city as a whole.”

“Binding heritage conservation statutes establish the idea that the appearance of the public realm is an important societal matter. This creates a needed balance between the general welfare and the rights of private property owners – but most importantly, it unleashes a ‘culture of conservation’ and all the myriad acts of good civic husbandry that follow.”



Carefully restored shops in Port Hope's Heritage Conservation District

Photo: Cathy Nasmith

Lessons for Ontario

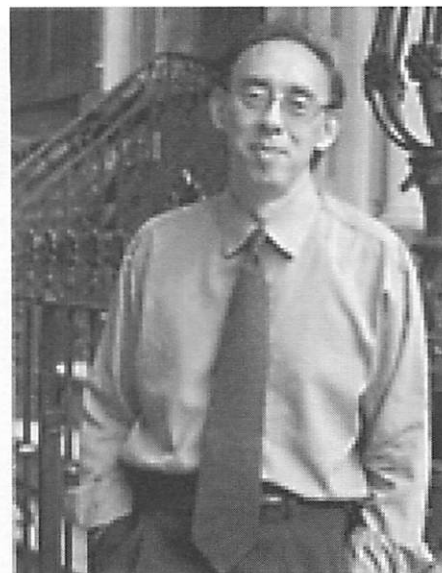
Back in Toronto, I pondered what I'd seen in Manhattan. In Ontario, our weak preservation laws prevent us from fully realizing the rich rewards that the “culture of conservation” has brought to other places.

Relative to other jurisdictions, Ontario has few heritage conservation districts. Yet those that we do have, as in New York, are places that people want to visit, work and live in. Port Hope, for example, a town that has for 30 years worked to preserve and enhance its wealth of heritage buildings, seems now to be emerging as one of the places of choice for those looking for a better quality environment.

In my view, the heritage conservation district is the most underutilized tool in the Ontario planning arsenal. With so many neighborhoods struggling to find tools to prevent inappropriate changes, and communities hoping to attract new investment, it is amazing that resistance still persists.

Tony's coming back!

In May we will have a chance to walk with Anthony Tung through beautiful streetscapes around the world, learning about urban preservation in other places, at the joint conference in Hamilton of the Architectural Conservancy of Ontario and Community Heritage Ontario. Don't miss his



Anthony Tung

Photo: Cathy Nasmith

lecture and workshop!

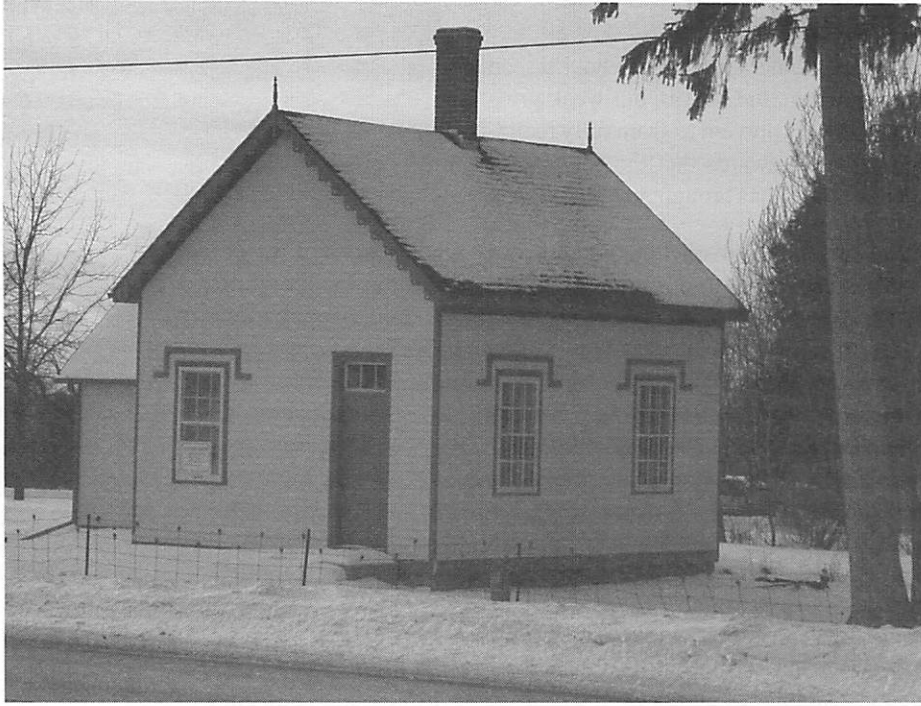
New Life for a Wonderful Heritage Building

Blake Holton

So the only alternative, it seemed, was to rip it down. A small, non-descript, siding clad house, overgrown with cedar bushes in the southeast corner of Port Hope's Union Cemetery was slated to go. Owned by the municipality, the house had, for years, been the principal residence of the cemetery caretaker.

Built in the 1800s, the house had architectural characteristics similar to the beautifully restored cemetery chapel nestled just down the laneway. Like many buildings, though, the caretaker's cottage needed more than a friend. Having been allowed to fall into a sad state of disrepair, the town felt the cost of upgrading the building was more than they could bear. The only alternative, it seemed, was to have it removed.

When Port Hope Branch Vice-President, Peter Rumgay, heard this, he approached our Board of Directors with a plan. Within weeks, the town had agreed to sign a 20-year lease on the property. For one dollar



Cemetery House, Port Hope

Photo: Blake Holton

a year, the Port Hope Branch would become the new tenants agreeing, in return, to install a new roof, remove the aluminum siding and restore the original clapboard that lay hidden underneath.

With a small budget and a champion like Port Hope Branch property manager Ed Pamenter, the caretaker's house is about to open as the new home of the Port Hope Branch of the Architectural Conservancy of Ontario. Ed and a dedicated handful of

tireless volunteers have given the house new life. The agreed upon upgrades just scratch the surface of what has been accomplished on site. There is a new roof. The aluminum siding is now a memory and, yes, the original clapboard has been professionally restored.

But.... we also have new plumbing, new wiring, a new gas furnace powered by a freshly dug gas line that now feeds the building. The back section of the house has been jacked up, the brick chimney has been rebuilt, the ceilings have been raised to their original height and the interior walls have been completely reconstructed. Ed, after rebuilding the eyebrows over each window, had a few minutes to find all the furnishings necessary to outfit our office and boardroom.

As a branch, we are, needless to say, very proud and thankful for all the time and effort that has gone into this spectacular restoration project. On March 1 we moved into this beautiful little building and we invite you to stop in and visit the next time you come to town.

**Ministry of Culture pre-conference workshop:
Writing "Reason for Designation" Statements
May 14, 1:00-4:30 pm – Scottish Rite Club, Hamilton**

Have you ever struggled to explain the heritage value of a property, or to choose language that will lead to its commemoration and/or protection?

This hands-on workshop will teach participants how to write a "reason for designation," the statement at the core of a heritage designation under the *Ontario Heritage Act*. Participants will learn: the purpose of the "reason for designation" statement, its key components, how to write such a statement effectively, and how to use it to evaluate requests to alter the property.

Who should attend? Municipal heritage committee members, municipal staff, heritage consultants and others involved in the writing of "reason for designation" statements or advocating for the designation of heritage properties. Registration is free, but will be limited to 60 participants.

Register through your conference registration, or contact Heather Thomson at (416) 314-7145 or heather.thomson@mcl.gov.on.ca

NEWS FROM OUR BRANCHES

South Bruce-Grey

Francesca Dobbyn

This article originally appeared in the Owen Sound Sun Times on February 5, 2004.

We seem to be at a juncture of decision making in regard to local architecture and heritage in Bruce and Grey. There are four communities who are at varying stages of success in preserving local buildings.

Walkerton's Victoria Jubilee Hall has been an ongoing project for many years. Facing demolition a group of intrepid individuals stepped forward and were successful in preserving and beginning the restoration of the hall.

Sustainability is a favourite word for those who oppose tax dollars supporting restoration efforts. Victoria Jubilee Hall does have paying tenants and is becoming a strong cultural center in downtown Walkerton – thus answering the question and concerns of sustainability. It can work.

While the battle seems won in Walkerton, Meaford's Opera House continues to inflame passion and debate. The committee is proceeding with the support of the community, while many are vocal in their opposition to the restoration. I've had a brief tour of the building and it is truly remarkable and a wonderful asset to the community.

You too can tour the Opera house as part of the "Behind Closed Doors" event. Behind doors is a peek into the past at Meaford Hall and Meaford Museum and runs February 20-22. Scheduled are pre-renovation tours through the nooks and crannies of Meaford Hall, including the Old Jail and backstage at the Opera House and a special winter opening of the museum which will bring out of the vaults important documents such as letters from John Muir, blueprints of the Old Meaford Train Station, and a few in-house ghosts.

In the southern part of Bruce County another committee fights to preserve the Kincardine Pavilion. The site of both my grade 12 and 13 prom, this building holds many memories for me. This beachfront building has stood for many years, through many owners and, if walls could talk, it would tell many a tale.

A major fundraising event to support the restoration of Kincardine's Beach Pavilion takes place Saturday, February 7 at Polar Fest's First Annual Snowflake Ball at the Davidson Centre. Let's Dance is the theme of the Friends of the Pavilion new campaign to open the doors of the historic building and fill it with life again. Most appropriately the fabulous Light-house Swing Band is providing the music.

With over 4,000 signatures to save the building and a green light from Municipal Council last year, the Friends of the Pavilion are urging everyone to brush off their dancing shoes and hit the floor in style on Saturday, February 7.

Here in Wiarton the challenge to save the 100-year-old Wiarton High School has only begun. Issues of structural integrity have to be answered before concerns of sustainability are even addressed. Yet the old adage 'they don't build them like they use to' is so true. Each addition to the high school has its own unique problem. The only part of the building that hasn't caused any trouble is the original limestone section.

History and architecture is so important. It can define a community and unite a community. With apologies to the city of Owen Sound, the first time I saw the new courthouse I was truly disappointed. It looks more like Toronto than Owen Sound. In a region that celebrates the pale strength and heritage of limestone, that green is just wrong. A community cannot build heritage, it can only preserve it.

Editor's note: We are advised that the snowflake ball in Kincardine was a great success and that everyone is looking forward to holding it again next year, hopefully in the pavilion!

North Waterloo Region

Marg Rowell

Branch Christmas Party

On December 7, 2003 our branch held its annual Christmas gathering at the Walper Terrace Hotel at the corner of King and Queen Streets in Kitchener. We were taken on a guided tour by Denise Strong, who showed us the most recent renovations to this hotel originally built in 1893 by Abel Walper. In 1908 Joseph Zuber bought the building for \$74,500. At that time for \$4.50 a week a guest could have a room, meals, and a maid to fill the water pitcher. Beer and whiskey sold for five cents a glass.

The hotel has played host to most of Canada's Prime Ministers as well as Eleanor Roosevelt, Bob Hope, Duke Ellington, Will Rogers, and Pierre Burton.

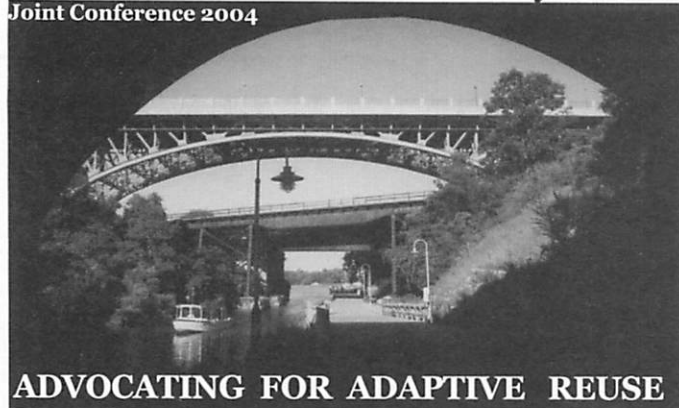
While the property has seen many interior changes over the years, the present owner, Fred Lafontaine, and Denise Strong have been very careful to keep as much of the original detail as possible while making the hotel functional for the travelling public. The furniture for the rooms and the colours in the rooms and hallways have been carefully chosen. Since it was close to Christmas all the beautiful decorations contributed to a lovely visual effect.

When the tour was completed we had dessert and tea or coffee in the restored restaurant on the main floor.

Heritage Showcase

The Waterloo Regional Heritage Foundation hosts a Heritage Showcase every year about this time. Scheduled for February 21, 2004 at the Cambridge Mall, the Showcase is an opportunity for area groups to display something to do with heritage. Our branch's display will consist of a large poster of the Classical Orders of Architecture supplied by Brian Dietrich from a

The Architectural Conservancy of Ontario and Community Heritage Ontario. Joint Conference 2004



ADVOCATING FOR ADAPTIVE REUSE Creating a Culture that Values our Heritage Buildings, Neighbourhoods and Landscapes.

**May 14, 15 and 16, 2004
Hamilton, Ontario.**

The Scottish Rite Club of Hamilton
4 Queen Street South (at King St.) Hamilton, Ontario.

The Royal Connaught Howard Johnson Plaza Hotel
112 King Street East. Hamilton, Ontario.

The heritage architecture and landscapes of our cities is the repository of the culture and identity of our communities. At the same time as it is valued for this, it is threatened with destruction by financial and regulatory pressures. In Hamilton, like most cities in North America, much of this cultural legacy has been lost or is under threat. This conference will explore examples of heritage architecture, neighbourhoods and landscapes that have been successfully reused by confronting these pressures. It will also look to other jurisdictions throughout Ontario, Canada, and the world to explore the culture of adaptive reuse.

Presented in partnership with:

The Art Gallery of Hamilton Future Cities Project

Generously Sponsored by:

The City of Hamilton

The Hamilton and Burlington Society of Architects

Turkstra Lumber

Eastgate Square

Opening Reception and Key Note Address:

PRESERVING THE WORLD'S

GREAT CITIES

An Illustrated Lecture by ANTHONY M. TUNG

Friday May 14, 2004. 7:00 PM

The Cathedral at the Scottish Rite Club

Free Public Presentation

ANTHONY M. TUNG is a New York Based Author and Urbanist. He served as New York City Landmarks Preservation Commissioner from 1978 to 1988.

His lecture will be based on his critically acclaimed new book *Preserving the World's great Cities, The Destruction and Renewal of the Historic Metropolis*.

For registration and more information see:

www.architecturehamilton.com

Conference Highlights

Friday May 14, 2004. The Scottish Rite Club

1:00-4:30 PM Ontario Ministry of Culture Workshop

5:30-7:00 PM Conference Registration

7:00-9:00 PM

Key Note Address

Preserving the World's Great Cities

by Anthony M. Tung

Reception to follow Key Note address

Saturday May 15, 2004. The Royal Connaught Hotel

8:00-9:00 AM Conference Registration and Light breakfast

9:00-9:30 AM Welcoming Remarks

9:30-10:45 AM

**Plans for Downtown Ottawa and
Downtown Hamilton**

George Dark, Principal Urban Strategies Inc.,
Urban Designers, Toronto.

Hamilton's Downtown Renewal

Plans and Incentives

Ron Marini, Director, City of Hamilton Downtown
Renewal Division.

11:00-12:00 PM

The Kaufman Building, Kitchener

Mr. Mitchell Fasken, President Kimshaw Holdings

Kaufman Building, Kitchener,

Municipal Perspective

Terry Boutilier, City of Kitchener

12:00-1:30 PM

Lunch Break, (Lunch on your own off site)

1:30-2:30 PM

The Distillery District, Toronto.

Michael McClelland, E.R.A. Architects.

David Jackson, Cityscape Development Corp.

The CARLU, Toronto.

Michael McClelland, E.R.A. Architects

Mark Robert, Managing Partner, The CARLU

2:30-3:30 PM

Preservation Workshop:

Case Studies from Abroad.

Anthony M. Tung, New York.

3:45-4:30 PM

Plenary Session: How Can we foster a culture
that will value the adaptive reuse of our heritage
resources here in Ontario?

6:00-7:15 PM

Reception (Cash Bar)

7:15-10:00 PM

Banquet & Key Note Address :

Heritage Successes Across Canada (TBC)

An illustrated lecture by:

Mr. Jim Bezanson, Heritage Planner City of St.

John, Developer of heritage properties and current
chair of the Heritage Canada Foundation.

Sunday May 16, 2004. The Scottish Rite Club

9:00-9:30 AM C.H.O. Annual General Meeting

9:30-10:00 AM A.C.O. Annual General Meeting

10:00-12:00 PM MHC/LACAC "Show and Tell" and
ACO Branch Reports

1:00-2:30 PM

a. Double Decker Bus Tour

"Heritage Highlights of Hamilton"

b. Walking Tour of Downtown Hamilton

ADVOCATING FOR ADAPTIVE REUSE A.C.O. & C.H.O. Joint Conference Hamilton 2004
260 MacNab Street North, Hamilton, Ontario. L8L 1K3 dmr_reid@sympatico.ca

The Architectural Conservancy of Ontario and Community Heritage Ontario. *Joint Conference 2004*
ADVOCATING FOR ADAPTIVE REUSE
Creating a Culture that Values our Heritage Buildings, Neighbourhoods and Landscapes

To register complete and return this form along with payment, to the address below before May 1, 2004.

Name: Mr. ___ Ms. ___ Mrs. ___ Dr. ___
 (Any interested member of the public is welcome to register)

Organization: CHO ___ ACO ___ HBSA ___ AGH ___ Other ___ MHC/LACAC Voting Delegate ___

Address: _____

City/Town: _____ Postal Code: _____

Phone: _____ Fax: _____ E-Mail _____

CONFERENCE EVENTS

	Event	Cost/ Person Before May 1/04	Cost/ Person After May 1/04	Number Attending	Cost
1	Pre Conference Workshop Writing Reason for Designation Statements Friday May 14/04 1PM-4:30 PM (Please pre register space is limited to 60)	FREE.	FREE.		
2	Anthony M. Tung Key Note Address Friday May 14/04. 7-9PM (Conference registration guarantees a seat)	FREE.	FREE.		
3	a. Conference Presentations & Plenary Session Saturday May 15/04. 9 AM-4:30PM b. C.H.O. Annual General Meeting or A.C.O. Annual General Meeting and MHC/LACAC "Show and Tell" with ACO Branch Highlights Sunday May 16/04 8:45AM-12:00PM	\$90.00	\$100.00*		
4	Reception, Banquet and Key Note Address Saturday May 15/04 6PM-10PM Includes a full meal with one glass of wine. Cash Bar.	\$30.00	\$40.00		
5a or	Heritage Highlights of Hamilton Double Decker Bus Tour Sunday May 16/04. 1PM-2:30PM (space is limited to 50)	\$12.00	\$12.00		
5b	Downtown Hamilton Heritage Walk Sunday May 16/04. 1PM-2:00PM (space is limited to 40)	FREE	FREE		
6	Table at the Heritage Info. Market Place	\$10.00 each	\$10.00 each		
	TOTAL AMOUNT PAYABLE				\$ _____

Payment Options:

Cheque Enclosed ___ (Make cheque payable to: CHO/ACO Joint Conference 2004)

Credit Card: Visa ___ or Master Card ___ Card #: _____ Expiry Date: _____

Banquet Attendees Please Indicate any Dietary Restrictions: Vegetarian ___ Allergy _____ Other _____

MHC/LACAC Chairs and ACO Presidents please indicate whether you require a free table at the Heritage Info. Marketplace ___

MHC/LACAC Chairs and ACO Presidents please pre register your presentation for the Show and Tell/Branch Highlights.

*Art Gallery of Hamilton Members and HBSA members will not be charged the late registration fee.

Mail:

Send payment and completed form to:
 CHO/ACO Joint Conference
 c/o 260 MacNab Street North.
 Hamilton, Ontario. L8L 1K3

e-mail:

Complete form and e-mail to:
 dmr_reid@sympatico.ca
 Payment via Credit Card at Conference
 Please note that we cannot guarantee the security/privacy
 of an e-mail registration. User discretion

Fax:

Complete form and fax to:
 905-528-8133
 Payment via Credit Card at
 the Conference

ADVOCACY FOR ADAPTIVE REUSE

A.C.O. & C.H.O. Joint Conference Hamilton 2004

poster by Summit Restoration Limited.

The remainder of the display will be black and white and colour photos of various styles of architecture found in the City of Waterloo. We have two pages to hand out – one is of architectural styles and the years in which they were built and the other is an illustrated page of architectural terms.

London Region

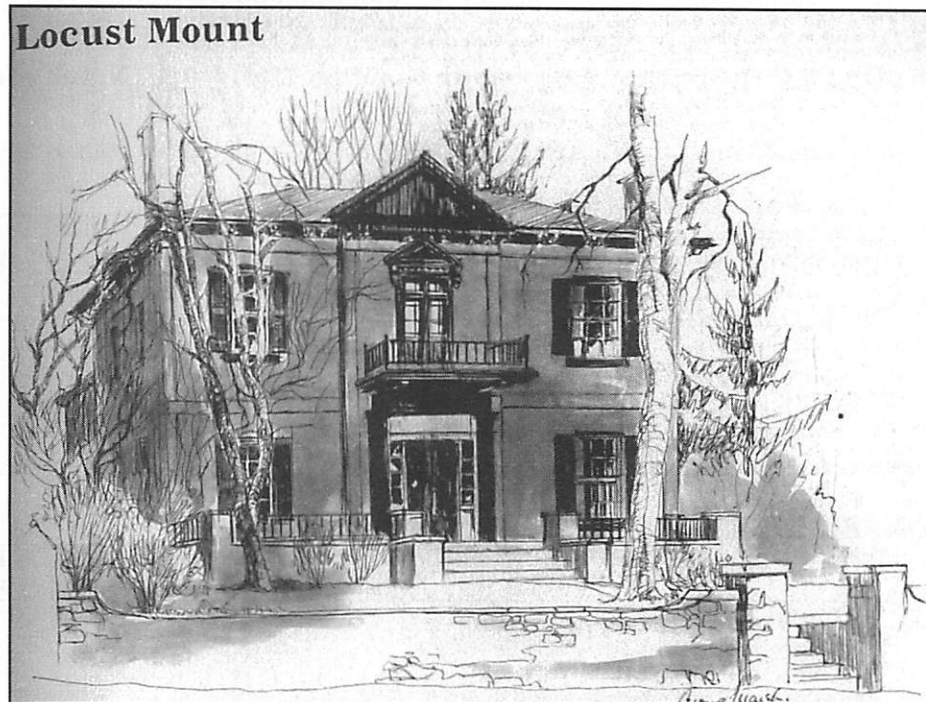
Don Menard

Historic Building Threatened

London is facing the loss of one of its most historic homes following a demolition request for the property at 661 Talbot Street, better known as Locust Mount. The house, an excellent example of the Classical Revival style, was built in 1853-54 for its owner, Mr. Elijah Leonard. Leonard was an early industrialist who established the Leonard Iron Foundry. Later he became involved in the founding of the Huron and Erie Trust Company, an ancestor of Canada Trust. In 1857 Leonard served as London's third mayor. Following Confederation he was appointed to the Senate where he served until his death in 1891.

Throughout the twentieth century Locust Mount has been adapted several times. It has served as a private residence, a Catholic girls school with a dance academy, a duplex and, most recently, a fraternity house. In 2000 it suffered a fire in the rear of the house. Heat and smoke damage was extensive throughout. The house has been derelict since the fire pending a settlement between the owner and the insurance company. However, on December 24, 2003 the owner, Drewlo Holdings, a development company, submitted a request for demolition.

Unfortunately, as historic as the house is, it has not been designated under the Ontario Heritage Act – although it is listed as a Priority One on the city's inventory of heritage resources. The request for demolition has prompted action by the heritage community. An initial step has been to request the city to deny the demolition per-



Locust Mount - sketch by Anne Marsh from the book *London Heritage*

mit and to designate the building. This step has led to a temporary reprieve of at least three months pending discussion between the owner and the city. There is a possibility that the owner may turn the building over to the city or to a heritage group, which would then be faced with the daunting challenge of renovating and restoring the home and finding an acceptable use. At present, ACO London's priority is to save the building. While very positive media attention has been received so far, it remains to be seen how much support London will provide.

Memories of Guy Lombardo

Another prominent landmark, Wonderland Gardens, is also currently under discussion. Wonderland Gardens was constructed along the Thames River in Springbank Park in the 1930s and has served Londoners since then as a popular dance hall, summer day resort, and banquet hall under the management of Chuck Jones and his family. Some of the big names of the swing band era performed there, including London-born Guy Lombardo. The site has always been owned by the City of London, and following a rather bizarre series of events last year, the city has taken control of the building and is now in the process of deciding

what to do with it. Public opinion seems to support preserving the building. The city has asked its advisory committee on heritage, LACH, to determine whether the building is worthy of designation under the Ontario Heritage Act.

Budget Concerns

London City Council presented its proposed budget for 2004 to the public in early January. As is happening elsewhere, tax increases in the range of 10 percent or more are predicted. Unfortunately, in the attempt to control spending, the heritage community will suffer. The budget of Landmarks London, a city committee intended to oversee heritage grants, is to be reduced 80 percent. Tight budget concerns suggest the city will be unwilling to increase its commitment to built heritage preservation.

Branch Programs

On February 18, to mark Ontario Heritage Week, ACO London co-hosted a joint meeting with the London and Middlesex Historical Society. The event was held at the Info-Tech business site. Info-Tech is a software consulting company, which has recently renovated a former Baptist Church at Adelaide and Queen's Avenue. Originally, the building was designed as a palatial Second Empire style residence for

Benjamin Cronyn and family. Mike Baker, curator at Museum London, discussed Cronyn and his residence.

Hamilton Region

Ann Gillespie

Branch Activities for 2004

The ACO Hamilton Region Branch has focused its efforts in the early part of 2004 on the work of the Joint Conference Committee in planning the combined ACO/CHO Conference to be held in Hamilton, May 14-16 (*see program and registration form in this issue*). Among the speakers addressing the theme "Advocating for Adaptive Re-use" is New York based author and urbanist Anthony Tung, who will deliver an illustrated free public lecture based on his award-winning book, *Preserving the World's Great Cities*. With top priority given to organizing this conference, our schedule of walking tours and other events has not yet been finalized. Details will be available on the Architecture Hamilton website (www.architecturehamilton.com) along with updated conference information.

Beach Canal Lighthouse Group

This year our Branch participated again in the Heritage Marketplace as part of the Heritage Day celebrations at Hamilton City Hall on February 14. We shared our table with the newly formed Beach Canal Lighthouse Group, which held its founding meeting on November 12, 2003. The group's broad objective is to acquire, restore and make publicly accessible the 1850s lighthouse complex beside the Burlington Canal. Several members of the ACO Hamilton Region Branch and Hamilton LACAC (Tony Butler, Barbara Murray, Ann Gillespie, Donna Reid and Robin McCee) have joined this group and participated in the meetings to date. The group has already raised sufficient funds through memberships to apply for incorporation as a not-for-profit organization. The lighthouse complex (lighthouse and keeper's dwelling) and surrounding land are respectively owned by two different branches of the federal government: the

Department of Fisheries and the Department of Public Works.

The stone lighthouse (1858) and adjacent keeper's dwelling (1857) are located just south of the Burlington Canal (Hamilton side) on the strip of land dividing Hamilton Harbour and Lake Ontario. Both structures have been designated by Hamilton City Council under the Ontario Heritage Act and the lighthouse is also a *recognized federal heritage building*. Once a prominent landmark on the Beach Strip, the still impressive 55-foot high, circular stone structure is now overshadowed by the adjacent steel tower of the vertical lift bridge and elevated roadway. Its turn-of-the-cen-



Postcard image of the stone lighthouse on the south side of the Burlington Canal around 1908-9.

View looking west with the road swingbridge and R.H.Y.C. building in the background. Postcard issued by Valentines & Sons' Publishing Co. Ltd. From the collection of Ken Elder, Ottawa

tury setting was much different from today.

Directly west of the lighthouse stood the flamboyant wood building of the Royal Hamilton Yacht Club, the focal point of recreational activity when the Beach Strip

was a popular summer resort around the turn-of-the-century. Visit our companion website, *Postcards from Hamilton's Past* (www.postcardsofhamilton.com), to see a wide variety of postcard images depicting the canal area during this era.

The lighthouse and keeper's dwelling together constitute one of the few extant historic light stations in Ontario. The lighthouse, constructed of squared white limestone blocks laid in regular courses, was erected by the renowned Scottish mason from Thorold, John Brown, who built six similar lighthouses on Lake Huron and Georgian Bay – these were known as "Imperial Towers" (all are still standing). The Burlington lighthouse remained in service until 1961 when the main light was installed on the new lift bridge.

Our Branch strongly supports the initiative of the new Beach Lighthouse Group to acquire and rehabilitate the architecturally and historically significant lighthouse complex. We look forward to seeing both the lighthouse and keeper's dwelling restored as a tourist attraction, featuring indoor and outdoor interpretive displays. The new hard-surfaced walking/cycling trail extending the length of the Beach Strip on the lake side is expected to revive the recreational use of the area thereby greatly increasing its cultural tourism potential.

Quinte

David Bentley

It is hard to believe that twenty years have past since the Quinte Branch was formed to save the McIntosh/Ridley House on South Front Street – which is still there by the way, and occupied by a development company. The Quinte Branch of the ACO continues to do well, with approximately 150 members (there are many family memberships which include husband and wife).

I would like to thank all the members of the executive committee for their help over the last year; it has meant a great deal to me to have their support. Our executive

meets four times a year, and the meetings are open to any members who would like to attend. The meetings are always followed by excellent pot-luck lunches and lively conversation, which is certainly a good incentive to be an executive committee member.

The executive committee met in November to finalize the walking/driving tours for 2004. We were pleased to have author Ron Brown as our guest speaker at our Annual General Meeting on January 18, and this was followed by a video on lighthouses in February and hopefully a guest speaker in March to talk about Union Station. Starting in April we will be on the road again with tours of Victoria/Gore Road in Prince Edward County, Cataraqui Cemetery, Lakefield, County Road #10 in Prince Edward County, Wilton, Wooler/Codrington, Hastings, and Consecon. There is always a lot of planning involved with these tours, but it is well worth it when we continue to have 40 to 60 people out per tour, rain or shine.

As tour guide for many of the walks I am always surprised and pleased by the number of home owners who quickly supply information on their house or invite the tour to walk around the property. Our walks are open to the public, as well as to our members, and members from other ACO branches are welcome to join us. (If you would like to attend a walking tour, you can get information on tours by contacting me at 613-968-7605.)

The branch is doing well financially and, at our Annual General Meeting, members voted to send \$500 towards the restoration of St. John's Church in Lunenburg, Nova Scotia, as well as \$500 to help with the cost of moving an historic school to the Ameliasburg Pioneer Village. The money for both donations is coming from the branch's Heritage Fund, which is used to finance (mainly) local projects that the branch deems worthy.

I am very pleased to report that there is a full slate of officers for the coming year. Olive Root, our branch treasurer, has indicated that she would like to step down to do other projects and I would like to take this opportunity to thank her publicly for many years of service as our treasurer.

Peter Wheatley, of Bates & Wheatley Bookkeeping, was elected as our treasurer for the coming year (and hopefully many more after that.)

Our members have access to an e-mail service (Yahoogroups.com) run by the branch, and members regularly receive the "Built Heritage News" from Cathy Nasmith. This free e-mail service is something that we would highly recommend to other ACO branches. Our branch is discussing the idea of setting up a website, but it will probably be a while before this gets going.

Our executive committee has discussed the ACO Board's idea of increasing membership, and it was agreed that our branch is at a level we feel can be managed reasonably. It was also felt that more branches need to be established, including more in the Toronto area. The idea of having a more commercially viable ACORN is also a good idea.

Port Hope

Blake Holton

"I'm such an ass for having said I'd take this job." – B. Holton, 2002

"That, my friends, was some of the best fun I've ever had." – B. Holton, 2004

For me, agreeing to sit as President of the Port Hope Branch of the ACO was kind of like getting invited for dinner to the house of someone that you don't really know. All the way there, you whine to your wife that you'll have nothing in common with them, you'll have nothing to talk about and that, over all, you'll probably have a really lousy time. And then all the way home you laugh about what great sports they were and about how maybe you should invite them over tomorrow to be your kid's godparents.

Going in, I had no idea about what being a part of the ACO would entail. I knew little about preserving architecture of historical significance, and not much more about the people I would be working with. But driving home from last month's board meet-

ing, I admitted to myself that my last two years as Port Hope branch President have been a really wonderful experience. I've been able to witness, over and over again, ordinary people doing extraordinary things for their community.

Ordinary people volunteering countless hours in an effort to raise tens of thousands of dollars for scores of incredible projects. Ordinary people getting to work, saving pieces of our built heritage like the little cemetery house on Toronto Road (*see article in this issue*). People organizing house tours, walking tours and garden tours. People raising funds to restore churches and train stations, homes and mainstreet buildings. People recognizing the importance of conserving our special surroundings and then getting to work and getting it done. People, on a daily basis, writing newsletters, authoring heritage by-laws, attending meetings and shaping the future of an organization that's full of vitality and vision.

It all seems to get done with little fanfare or hoopla. In fact, it all gets done because the people who make up the membership of the Port Hope Branch of the ACO understand that our built history is, to a large part, what has made this community such a brand-name place in a rather generic world.

Windsor Region

Pat Malicki

Welcome Laurence Grant

We would like to welcome Laurence Grant as Windsor's new Manager of Cultural Services. Laurence is not unknown to us, as he was the curator of Windsor's Community Museum from 1990 to 1995. After spending eight years in Guelph, we are very pleased to have him return to oversee the development of culture and heritage programs and facilities. We look forward to working with him.

SOS-Églises

Things are relatively quite on this front as I write this. A settlement has been reached

with the Town of Lakeshore regarding legal costs and an application to the Court Challenge Program of the Department of Canadian Heritage has been approved, so it looks like most of the \$143,000 in legal costs will be reimbursed. We don't want to be any more definite on this until all cheques have been received.

A most sincere thanks should go to Paul Chauvin, Andre Chenier, Roger St. Pierre, David Tremblay and Paul Trepanier who literally "put their money where their mouths were" on this issue. If they had lost at Divisional Court, they personally would have had to come up with the remaining \$100,000 to pay the legal costs! How many of us would go that far to save one of our heritage buildings!

Our sincere thanks to all who contributed to this "project." Correspondence has been sent, again, to the Diocese, requesting a meeting to discuss the purchase of Église St. Joachim. So far, no reply has been received. There are many possible uses for this wonderful building, and we are all very concerned that it is being subjected to yet another winter with no heat.

A Lakeshore resident and Windsor Region ACO have filed an appeal to the OMB regarding the decision to build the new church in the middle of a soybean field, within spitting distance of Hwy. 401 (soon to be widened to six lanes) – and away from the population centres of the municipality. No date has been set for that hearing.

We are all keeping our fingers crossed that a new Ontario Heritage Act that includes demolition control will be presented to the Ontario Legislature early in the mandate of the Liberal government. As readers know, even if Église St. Joachim is designated, it is still not completely protected. We would hate to see it caught in the cracks, so to speak.

Photo Contest

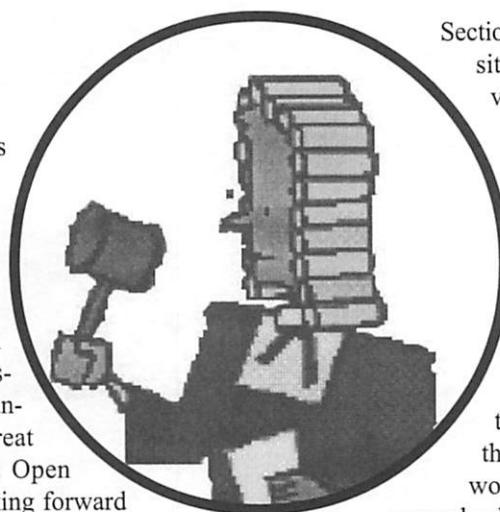
Rina Guarascio and her committee are hard at work on the 2004 Photo Contest. This year's theme will be "tombstones and grave markers." We arrived at this theme due to the extensive vandalism that occurred at the historic St. John's Anglican

Church Cemetery last fall. As always, the contest is open to amateurs only and the photographic content must be from Windsor and Essex County. Be sure to watch the ACO website for more details on this year's contest.

Doors Open Amherstburg/ Windsor

Our 2004 Doors Open will be held on September 25 and 26. The change of dates is due to scheduling conflicts with other events in Essex and Kent Counties. After the great success of Doors Open 2003, we are looking forward to having several new sites in both Amherstburg and Windsor. We would love to see our fellow ACO members at our event this year and would be pleased to provide B&B information.

See you in Hamilton in May!



Section 68 of the Act, a transitional provision, provided in its original form that where before the Act came into force, a building or structure had been designated by any private Act as a building or structure of historical or architectural value or interest, the building or structure would be deemed to be properly designated under Part IV of the Act.

The Court held that the fact that the applicant's building, at 118-120 Isabella Street in the City of Toronto, had been designated as an historical site under section 2 of the *City of Toronto Act, 1967*, did not constitute a designation by any private Act. A designation by a by-law under an Act does not constitute a designation by the Act. The Court directed the issuance of a demolition permit.

Subsequently, section 68 was amended to provide that where "a building or structure is designated by by-law under any public or private Act, it remained so designated under the *Ontario Heritage Act*."

(2) *Re Trustees of St. Peter's Evangelical Lutheran Church and City of Ottawa* (1980), 27 O.R. (2d) 264 (O.H.C.J.); affirmed by (1980), 30 O.R. (2d) 740 (C.A.); overruled [1982] 2 S.C.R. 616

The applicant's Church was designated by the City of Ottawa Council under Part IV of the Act. The trustees applied for permission to demolish the Church. Within 90 days of receipt of the application, City Council made a decision to refuse a demolition permit, and to expropriate the property. Two trustees of the Board were in attendance at the meeting, although the City failed to give formal notice of its refusal.

Case Law Decided By The Courts Under The Ontario Heritage Act

George Rust-D'Eye

Editor's note: This two-part article is excerpted from George's January 30, 2004 presentation to the Ontario Bar Association: "Our Built Heritage is Becoming History - A 30-year Retrospective: A Review of Built Heritage Conservation Under the Regime of the Ontario Heritage Act." The second part will appear in the Summer 2004 issue.

Although there have not been a large number of court cases decided under the Act, there have been some very significant decisions, and some lesser instances of litigation defining and interpreting the scope to be given to the Act, and the extent to

Book Review – Eden Smith: Toronto's Arts and Crafts Architect

Catherine Nasmith

Eden Smith: Toronto's Arts and Crafts Architect. By W. Douglas Brown. W. Douglas Brown, 2003.

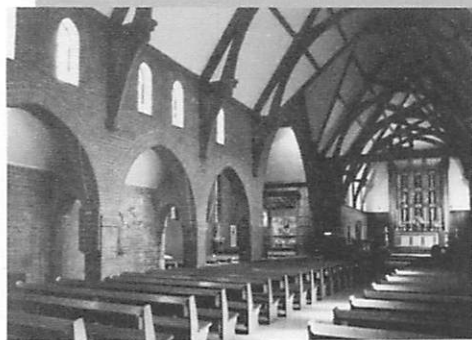
Is Eden Smith Toronto's unrecognized Frank Lloyd Wright, or Charles Rennie MacIntosh?

W. Douglas Brown, a member of the William Morris Society and a resident of Mississauga, driven by curiosity about the houses in Wychwood Park, wanted to find out more. His journey led him into archives and first hand sources that debunked a number of myths that have grown up about Eden Smith. He found enough information to not only reset Smith's work as an important Toronto architect, but also to set right his relationship to other great figures in the English Arts and Crafts movement.

Eden Smith: Toronto's Arts and Crafts Architect also shows Smith's place in the debate about the role of architects at the turn of the century – are architects artists or professionals? Personally, I think Eden Smith was on the side of the angels, but he was to lose. Brown outlines the split in the Toronto profession, with what became the Toronto Society of Architects squaring off against the future Ontario Association of Architects. Eden Smith was also involved in founding the Arts and Letters Club with members of the Group of Seven. Brown sheds new light on a chapter in Toronto's artistic history that has not been well recorded.



190 Warren Road (1910)
(demolished 1997)
Photo: W. Douglas Brown



383 Huron Street,
Church of St. Thomas (1892) -
view of nave, choir and sanctuary

Photo: W. Douglas Brown

\$25.00 each they make a nice, modestly priced present for anyone interested in Toronto's artistic history, and the place of architects in it. Brown has only published 250 copies so order yours today.

Douglas Brown can be reached at 1942 Delaney Drive, Mississauga, Ontario, L5J 3L1; (905) 822-2169; email: wdbrown@sympatico.ca

This review is adapted from a review that appeared originally in Built Heritage News, an e-mail bulletin published by Cathy Nasmith Architect.

In the lower courts, it was held that the Council was not deemed to have consented to the demolition. The Act was intended to allow municipalities to protect selected buildings for the public good, and should be given a liberal and benevolent interpretation. No formal notice was required.

The Supreme Court of Canada reversed this decision. Under section 34 of the Act, the Council is required to consider the application, and within 90 days of receipt, to consent to the application or refuse consent, and cause notice of its decision to be given to the owner.

"The *Ontario Heritage Act* was enacted to provide for the conservation, protection and preservation of the heritage of Ontario. There is no doubt that the Act provides for and the Legislature intended that municipalities, acting under the provisions of the Act, should have wide powers to interfere with individual property rights. It is equally evident, however, that the Legislature recognized that the preservation of Ontario's heritage should be accomplished at the cost of the community at large, not at the cost of the individual property owner, and certainly not in total disregard of the property owner's rights. It provided a procedure to govern the exercise of the municipal powers, but at the same time, to protect the property owner within the scope of the Act and in accordance with its terms ...

The observance of the notice provisions and the specified time limits is ... of fundamental importance. They fix and determine the commencement and duration of the period or periods during which the landowner's rights are suspended and thereby fix the date upon which they may be re-asserted ...

The purpose of section 34 is to give the City time to consider its position. The combined effect of the specified time limits imposed, the specific direction to decide and notify, the provisions of section 67, giving a method by which notice may be given, and the deeming provision is to give an element of finality to the proceedings. In other words, by failing to act within the 90-day period, the City has been deemed to have consented to the appellant's appli-

cation to demolish, not because it has in fact consented, but because it failed to observe specific statutory provisions, the compliance with which is a condition precedent to its right to retain control of the property."

The Court allowed the appeal and directed the passage by the Council of a by-law repealing the designating by-law.

(3) *Re Toronto College Street Centre Ltd. and City of Toronto et al.* (1986), 56 O.R. (2d) 522 (C.A.).

The building known as Eaton's College Street was designated by City Council under Part IV of the Act. The owners did not consent to the designation.

The reasons for designation referred to the architecture of the building, its materials and workmanship, and its defining presence at the corner of Yonge and College Streets, but made no reference to the interior of the building.

The City had also enacted a by-law under what was then section 35(a) of the *Planning Act*, requiring as a condition of development or redevelopment of land or buildings, the provision, maintenance and use of certain facilities and matters referred to in the *Planning Act* at that time.

Although the development agreement was executed, the City supporting by-law was struck down, and the development agreement turned out therefore to be invalid. Subsequent legislation validated by-laws enacted under that section, insofar as they dealt with "facilities and matters" enumerated in section 35(a).¹

Lengthy ongoing discussions took place between the City and the developers during their proposed redevelopment of the building, involving a demolition of parts of the old building but substantial restoration of the central block, including, as emphasized by the City from time to time, the preservation of the seventh floor, which included Eaton's auditorium, a restaurant and foyer considered of significant architectural importance to City officials and to the public. Among other things, the City Council granted a substantial density bonus by reason of the developer's under-

Book Review: *Well Preserved*

Gail Sussman

Well Preserved: the Ontario Heritage Foundation's Manual of Principles and Practice for Architectural Conservation. Third revised edition. By Mark Fram. Boston Mills Press, 2003.

With the eager anticipation of seeing an old friend, I opened the envelope containing the third edition of Mark Fram's *Well Preserved*. Like old trusted friends, the form has changed but the essential values that have stood us in good stead for many years are still there.

As my well-read original copy is safely stored in Jerusalem, I was happy to learn that *Well Preserved* is again available to the conservation community. Since it was first published in 1988, *Well Preserved* has proven to be an excellent tool both for the preservation professional and the owner of heritage properties. Mark skillfully wove conservation principles and best-practice techniques together in an Ontario context. It was satisfying to recommend the book to LACAC members as part of the former Preserving Ontario's Architecture program because it clearly outlined approaches to take and provided LACACs with the resources they needed to work with owners of heritage properties.

Well Preserved also holds a place of distinction in an international context. Despite having shipped 52 boxes of technical material to Israel in 1993, it was *Well Preserved* that I turned to most frequently when starting a Conservation Training Programme for the Israel Antiquities Authority. My students were from Chile, Argentina, Russia, Ethiopia, Morocco, etc. and the material in *Well Preserved* was eagerly absorbed and applied.

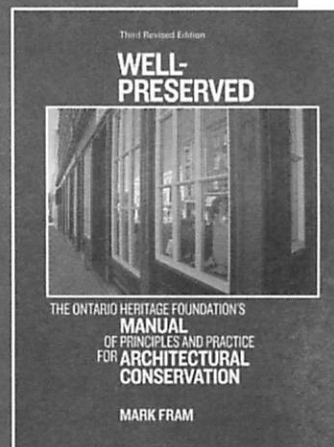
This year, as part of the Cultural Heritage Protocol with the Ministry of Culture, the Ontario Realty Corporation (ORC) is undertaking an inventory of approximately 2000 heritage buildings owned by the citizens of Ontario. The emphasis now at ORC is portfolio management and good stewardship rather than disposition. Thus there is a need to train the asset managers in conservation principles and practice. The emphasis must be on maintenance. When I am on the road again, *Well Preserved* will be required reading for my students.

In the days of the Internet, you may well ask why you should buy this book. Certainly it is possible to download the most up-to-date information on recording and documentation as technology rapidly changes. Through no fault of its own, this classic cannot serve this purpose. However, if you need a comprehensive overview of all the issues in preserving cultural resources, in a format that you can snuggle up with on a cold winter night or take to the field, then I heartily recommend *Well Preserved*.

We expect our friends to look like they were when we first met them. I would have preferred the publishers keep the spiral bound format. I have used this book as a tool for the past 15 years and being able to flip the pages easily works well for me. That small flaw can be corrected in the fourth edition.

The need for this book is still there. Congratulations to all involved in this new edition.

Gail Sussman is Heritage Assessments Manager at the Ontario Realty Corporation.



taking to restore the designated building.

About two years into the development work, the developer concluded that the restoration of the seventh floor would impose an unacceptable financial burden, decided that that floor would be converted to office accommodation, and proposed amendments to its plan for that purpose.

Arising out of that conclusion, the developer also put forward for the first time the position that the designation of the building under the *Ontario Heritage Act* was not wide enough to include the restoration of the seventh floor.

An application for a building permit was refused, the Chief Building Official taking the position that he was bound by the *Building Code Act* not to grant the application if it was in contravention of any applicable law, in this case, the designation of the building under the *Ontario Heritage Act*.

In the litigation brought by the developers, the City relied strongly upon the previous undertaking and commitment of the owners to restore and maintain the seventh floor, and that such had been relied upon by the City in granting permission to demolish the College Street wing of the former store and to award increased density.

The Court of Appeal held that the sentence in the Reasons for Designation referring to the building as coordinating "the finest materials and workmanship with a scale rarely seen in Canada or in the work of Canadian architects" was sufficient to indicate that the interior of the building was affected just as much as the exterior. The Court concluded that, in view of the fact that Reasons for Designation are often drawn by non-lawyer citizens and employ-

ees, they "cannot be expected to have either legal training or experience in drafting municipal by-laws. In order to comply with the objects of the Act, it is appropriate to give these Reasons the same broad interpretation that must be applied to the Act itself."

The words "alter", "alteration" and "likely" contained in the Act must also be given a broad and liberal interpretation, denying a narrow approach to the scope of the reasons for the designation.

"Not only should section 33 of the *Ontario Heritage Act* be given a wide and liberal interpretation, but so too should the Reasons for Designation attached to a by-law passed pursuant to that section. It would be illogical to give the statute a wide and purposive interpretation and yet narrowly construe the brief reasons required by the Act for the designation of a building as one of historical or architectural importance."

The Court held that the Reasons for Designation included the interior of the building, specifically the seventh floor, and that the Chief Building Official was correct to refuse the application for a building permit as being in contravention of the *Ontario Heritage Act*.

While the Court held that the "facilities and matters," and the development agreement entered into between the parties, were not sufficiently broad to include the plans of the restoration of the seventh floor of the building; nevertheless, the developer through the agreement had unequivocally undertaken and committed itself to restore the Round Room and Auditorium, and the City, in reliance upon that undertaking, had given consent to demolish portions of the building, to allow exterior alterations to

the building and to increase density on the site.

Consequently, the City could set up a defence of estoppel, precluding the developer from attacking the City's designating by-law or taking the position that the designation did not affect the seventh floor, even if the by-law might be considered inadequate to pertain specifically to the interior of the building.

Many years later, following restoration of the seventh floor to its original Art Deco elegance, the facility was proudly opened, to wide public acclaim, as the Carlu Centre.

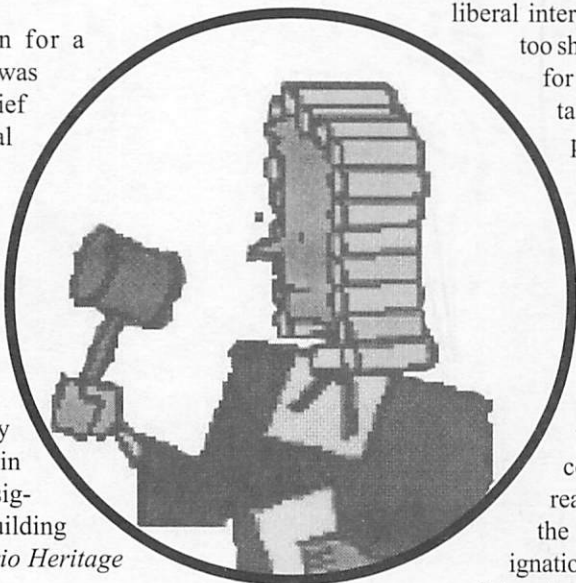
(4) *Westfall v. Eedy* (1991), 6 O.R. (3d) 422 (O.C. (Gen. Div.))

A local architectural conservation advisory committee is not a "local board" within the definition of that term in the *Municipal Conflict of Interest Act*. Unlike the boards and committees included in that definition, a LACAC does not have power and decision-making functions, but is only to advise and assist the municipal council and to be consulted by the municipal council. The committee has no power to designate a property, and the municipality is free to accept or reject the committee's advice.

Consequently, a member of a LACAC who chaired and voted at a committee meeting dealing with the designation and plaquing of his own heritage home (the plaquing to be at the full expense of the member) did not involve a pecuniary interest, there being "no evidence to indicate that the market value of the designated property would necessarily increase because of the designation."

(5) *Goldstein v. Davison* (1994), 39 R.P.R. (2d) 61 (O.C. (Gen. Div.))

In an action for rescission and damages arising out of an agreement of purchase and sale of a property, against the real estate agent, the agency and the vendor, the Court held that failure by the vendor to disclose the potential heritage designation of the property proposed by the City constituted a negligent misrepresentation and granted damages based on the difference between the purchase price and the value



of the property on closing with the potential designation in place.

It was found that the vendor had had communications with City officials, and that they had advised that they were interested in designating the house.

The LACAC had recommended designation, which was recommended by the planning and development committee, and adopted by City Council one day before the closing of the transaction. The vendor had received a copy of the notice of intention to designate.

(6) *Kindersley v. Ontario* (Conservation Review Board) (1997), O.T.C. 65 (O.C.J. (Gen. Div.))

The Court dismissed a judicial review of decisions of the Conservation Review Board, refusing the applicant's request for adjournment of a hearing into a proposed designation until the conclusion of the applicant's requested amendment to the official plan of the Town of Oakville, which would exclude the property from the goals and objectives expressed in the official plan, and therefore from designation under the *Ontario Heritage Act*.

The Board was required to hold a public hearing "as soon as is practical" after the filing of an objection. The various timeframes in the context of conducting a hearing "as soon as is practical" have the effect of balancing the rights of the individual property owner and the rights of the municipality pursuant to their rights to interfere with individual property rights.

(7) *Roman Catholic Episcopal Corporation for the Diocese of Peterborough v. Cobourg (Town)* (1998), 40 O.R. (3d) 187 (O.C. (Gen. Div.))

The Town Council designated property owned by the Diocese under the *Ontario Heritage Act*, with the reasons for designation making reference only to the significance of St. Michael's Church, located on that property.

Later, the Town and the Church entered into a heritage easement agreement registered against the property specifying a number of restrictions on the owner with respect to



Oops!

Observant readers will have noticed that two identical (if differently labelled) photographs appeared in last issue's article on Chicopee.

Here is the missing photo of the south façade of the Chicopee main house.

the repair, insurance and demolition of the church building.

The heritage easement agreement also provided, however, that the owner must not "erect or remove or permit the erection or removal of any building, sign, fence or other structure of any type whatsoever without prior written approval of the municipality."

The agreement also provided that: "Where any request for approval required under this Agreement is made, the determination of the Municipality may be based upon choice of materials, architectural design, historical authenticity, or any other grounds, not limited to purely aesthetic or historical grounds, but the Municipality's approval shall not be unreasonably withheld, unless otherwise stated."

Later, following debate about the potential demolition of the rectory, another building on the site, the Town passed a by-law to include references to the rectory in the designation.

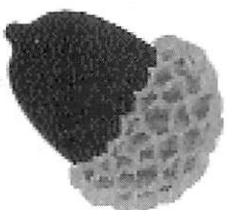
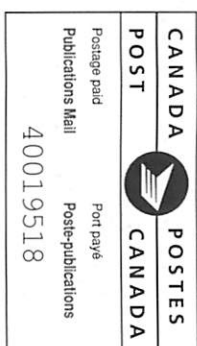
The Diocese applied for a demolition per-

mit, which the Chief Building Official initially granted, but then revoked on the basis that it had been "issued in error."

The Court dismissed an appeal from the decision revoking the permit, on the basis that the heritage easement agreement qualified as an "applicable law" under section 8(2) of the *Building Code Act*. The easement was created as part of a statutory scheme to protect heritage buildings in Ontario. Although the chief concern of the heritage easement agreement was the church building, it also applied to the rectory.

Section 37 of the *Ontario Heritage Act* did not preclude the agreement from including terms applicable to the grounds on which the building stands, or adjacent buildings, like the rectory, that may be integrally related to the preservation of the historic and architectural character of the designated building. Since the Town had never consented to the demolition of the rectory, its demolition would contravene the heritage easement agreement as an applicable law, and the permit was issued in error.

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XXIX 1